

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Buffalo, N.Y.,

Debtor.

Case No. 20-10322 (CLB)

Chapter 11

MOTION OF PAUL M. BURNS FOR RELIEF FROM AUTOMATIC STAY

PAUL M. BURNS (the “**Movant**”), by and through his undersigned counsel, hereby moves (the “**Motion**”) for relief from the automatic stay pursuant to 11 U.S.C. § 362 to allow the Movant to proceed to judgment against the Diocese of Buffalo, N.Y. (the “**Diocese**” or the “**Debtor**”) in the Supreme Court of the State of New York. The Movant hereby incorporates by reference for all purposes the Memorandum of Law and all related pleadings filed by the Official Committee of Unsecured Creditors in support of the Motion. The Movant submits, and incorporates herein by reference, the *Declaration of Daniel J. Chiacchia in Support of Motion for Relief from the Automatic Stay*, attached hereto as **Exhibit A**. In support of the Motion, the Movant respectfully states as follows:

Background Facts

1. On February 28, 2020, the Diocese filed a petition for relief under chapter 11 of Title 11 of the United States Code (as amended, the “**Bankruptcy Code**”).
2. On January 31, 2020, the Movant commenced a case against the Diocese and other entities in the Supreme Court of the State of New York captioned PAUL M. BURNS v. FATHER BERNARD SPLAWSKI, THE DIOCESE OF BUFFALO, N.Y., BISHOP TIMON-ST. JUDE HIGH SCHOOL, and FRANCISCAN FRIARS - HOLY NAME PROVINCE (NY), (the “**State Court Action**”). The case is stayed pursuant to section 362 of the Bankruptcy Code and the Second

Circuit's ruling in *Bayview Loan Servicing LLC v. Fogarty (In re Fogarty)*, 49 F.4th 62 (2d Cir. 2022).

3. The Movant timely filed Sexual Abuse Proof of Claim No. CC336 in the Diocese's chapter 11 case.

4. The State Court Action and the Sexual Abuse Proof of Claim seek damages against the Diocese and other parties on account of sexual abuse by an individual for whom the Diocese and/or other parties were responsible. The amount of damages sought through the State Court Action and Sexual Abuse Claim is unliquidated at this time.

Relief Requested

5. The Movant respectfully requests relief from the automatic stay for cause pursuant to section 362(d) of the Bankruptcy Code to prosecute the State Court Action against the Diocese and all other defendants in the action. If stay relief is granted, the Movant intends to establish the defendants' liability and obtain a judgment. However, the Movant will not seek to enforce such judgment subject to further order of the Court.

Basis for Relief Requested

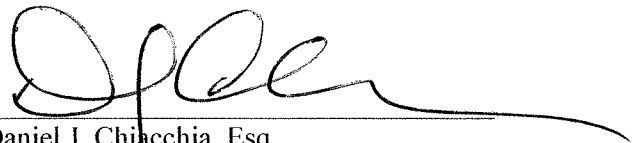
6. Relief from the automatic stay should be granted because cause exists as set forth in (a) the Joinder of the Official Committee of Unsecured Creditors in Motions for Relief from Automatic Stay (the "**Joinder**") and (b) the Memorandum of Law in Support of Motions for Relief from Automatic Stay (the "**MOL**"), filed concurrently with this Motion, and any related declaration or reply pleadings and such other arguments or evidence as may be adduced at the hearing hereon. The Joinder, the MOL, the proposed order, and all exhibits or attachments thereto are incorporated herein by reference for all purposes as though set forth fully herein.

7. The Movant does not waive his right to an automatic termination of the stay that

would otherwise be granted pursuant to 11 U.S.C. § 362 (e) after the expiration of thirty (30) days from the date of his request for relief under 11 U.S.C. § 362(e).

WHEREFORE, Movant requests that this Court issue an Order (a) granting relief from the automatic stay as requested herein and in the Joinder and (b) such other and further relief as the Court deems just and proper.

Dated: September 10, 2024
Hamburg, New York

A handwritten signature in black ink, appearing to read 'D. Chiacchia', with a long horizontal flourish extending to the right.

Daniel J. Chiacchia, Esq.
DAN CHIACCHIA ATTORNEYS, PLLC
Attorneys for Plaintiff
5113 South Park Avenue
Hamburg, New York, 14075
Telephone: (716) 648-3030

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:)	
)	
The Diocese of Buffalo, N.Y.,)	Case No. 20-10322 (CLB)
)	
Debtor.)	Chapter 11
)	

**DECLARATION OF DANIEL J. CHIACCHIA IN SUPPORT OF MOTION FOR
RELIEF FROM AUTOMATIC STAY**

Pursuant to 28 U.S.C. § 1746, I, Daniel J. Chiacchia, hereby submit this declaration (the

"Declaration") under penalty of perjury:

1. I am counsel of record to PAUL M. BURNS in [PAUL M. BURNS v. FATHER BERNARD SPLAWSKI, THE DIOCESE OF BUFFALO, N.Y., BISHOP TIMON-ST. JUDE HIGH SCHOOL, and FRANCISCAN FRIARS - HOLY NAME PROVINCE (NY), Index No.: 801488/2020] and on the related Sexual Abuse Proof of Claim number CC336. I submit this Declaration in support of the *Motion of Paul M. Burns for Relief from the Automatic Stay* (the **"Motion"**). Capitalized terms used but not defined herein shall have the meanings and definitions ascribed to them in the Motion.

2. In total, Dan Chiacchia Attorneys, PLLC, the firm which I work for, represents approximately 23 child sexual abuse survivors who filed proofs of claim in the above-captioned chapter 11 case.

3. We have represented approximately 100 child sexual abuse survivors over the years, including full prosecution of claims through trial.

4. I have participated in all Court ordered mediation sessions in this case as counsel to a member of the Committee.

5. The following summarizes the prepetition status of the State Court Action:

a. Prior to an answer being filed, the stay was ordered, so there has been no discovery completed.

6. The Diocese, the Committee, and the Diocese's insurers have failed to reach a mediated settlement of this case. I believe that the mediation has failed thus far, in large part, because the Debtor and its insurers, on the one hand, and the Committee and counsel to Sexual Abuse Survivors, on the other hand, have a substantial disagreement about the amount of proper compensation for holders of Sexual Abuse Claims.

7. The stay relief the Movant seeks is limited to the entry of a judgment, if any, and does not include collection actions against the Debtor or its insurers, subject to further order of the Court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of knowledge and belief. I executed this Declaration on September 10, 2024 at Hamburg, New York.

By: 

Daniel J. Chiacchia